

VZCZCXYZ0000
RR RUEHWEB

DE RUEHSN #0144/01 0391426
ZNR UUUUU ZZH
R 081425Z FEB 10
FM AMEMBASSY SAN SALVADOR
TO RUEHC/DEPT OF LABOR WASHINGTON DC
RUEHC/SECSTATE WASHDC 0326
INFO WHA CENTRAL AMERICAN COLLECTIVE

UNCLAS SAN SALVADOR 000144

SIPDIS
DEPT FOR DOL/ILAB AND DRL/TU DANG

E.O. 12958: N/A
TAGS: PHUM SOCI ELAB ETRD ES
SUBJECT: EL SALVADOR: INFORMATION ON CHILD LABOR AND FORCED LABOR FOR
DOL CONGRESSIONAL REPORTING REQUIREMENTS

REF: 09 STATE 131997; 08 SAN SALVADOR 699

¶1. (U) Summary: Pursuant to Ref A, this cable provides information on child labor and forced labor in the production of goods in El Salvador as well as prevalence and sectoral distribution of exploitative child labor, laws and regulations, institutions and mechanisms for enforcement, government policies, social programs to eliminate or prevent child labor. As a country eligible for trade benefits under the Generalized System of Preferences (GSP), the Government of El Salvador (GOES) supports efforts to eliminate the worst forms of child labor. During 2009, the Government of El Salvador, in conjunction with various non-governmental organizations (NGOs), conducted 12 programs specifically designed to reduce child labor. There were no new laws promulgated in 2009 relating to child labor. However, the Salvadoran government created a strategic plan to better implement their child labor strategy. In 2009, the Ministry of Labor (MOL) invested \$182,338 to combat child labor. End Summary.

INFORMATION ON THE USE OF FORCED LABOR AND/OR EXPLOITATIVE
CHILD LABOR IN THE PRODUCTION OF GOODS (Task 1/TVPRA)

¶2. (U) In response to the Department of Labor request for information regarding the use of forced labor and exploitative child labor in the production of goods in El Salvador as mandated by the Trafficking Victims Protection Reauthorization Act of 2005, post notes that the list of goods provided is not indicative of the level of forced labor or exploitative child labor in El Salvador. The most recent comprehensive and reliable data regarding child labor was published in a 2004 ILO report, Understanding Children's Work in El Salvador. There are no final reports on goods produced by forced labor, and no NGO could provide detailed information on the incidence of forced labor in El Salvador. The information in this cable is based on information provided by the ILO, employees, employers, press reports, and LABOFF's site visits.

¶3. (U) According to the 2008 School Registration Census, there are 109,065 children who work; 42 percent of them work in the agricultural sector. It also revealed that 3.18 percent of children work in the sugar sector; 11.12 percent in the coffee sector; 2.59 percent in the fishing sector; 12.06 percent are street vendors; 14.75 percent in domestic households; 1.79 percent in services; 0.58 percent in garbage scavenging; 0.15 percent in the production of fireworks; and 11.33 percent in other activities.

¶4. (U) In 2009, the MOL conducted 21,543 inspections in all sectors of economy. The following goods are alleged to be produced with exploitative child labor or forced labor:

Coffee

¶5. (U) Although the Government of El Salvador (GOES) has not classified coffee production as one of the worst forms of child labor, children are used extensively in the harvesting of coffee, in part because of cultural influences, and in part because of family sustenance needs. Many of the children who work alongside family members are not paid; rather they are seen as helpers. According to credible sources, during the coffee harvest season, some children do not attend the beginning of the school year (January-February).

¶6. (U) LABOFF has conducted trips to coffee plantations located in the Western zone of the country, and observed children of all ages employed during the coffee harvest.

¶7. (U) From January to December, the MOL reported conducting 841 scheduled inspections and 207 unscheduled inspections in coffee plantations. (Note: These inspections do not specifically focus on child labor. End Note.) The MOL did not provide us with the results of these inspections.

Sugar

¶8. (U) Sugar harvesting is one of the worst forms of child labor in El Salvador. In spite of the Salvadoran Sugar Association's efforts to eliminate child labor in sugar cane plantations, children frequently participate in the sugar harvest ("zafra"). However, according to a 2009 Human Rights Watch report, child labor in the sugarcane industry dropped by 70 percent between 2003 and ¶2008.

¶9. (U) During the year, the government reported it conducted 207 labor inspections in sugar cane plantations.

¶10. (U) During the year, the Salvadoran Sugar Association reported that it conducted 780 inspections, or approximately 11 to 12 daily inspections.

¶11. (U) Information contained in ref B remains valid.

Fishing and Mollusk Extraction

¶12. (U) During the year, the MOL conducted 13 inspections in the fishing sector. Information contained in ref B remains valid.

Fireworks

¶13. (U) As of February 3, the MOL had not reported how many inspections of fireworks companies were conducted. Information contained in Ref B remains valid.

Garments and Other Agricultural Products

¶14. (U) Information contained in Ref B remains valid.

2A. INFORMATION ON PREVALENCE AND SECTORAL DISTRIBUTION
OF EXPLOITIVE CHILD LABOR (Task 2/ TVPRA)

¶15. (U) In El Salvador, the International Labor Organization (ILO), whose regional headquarters are in Costa Rica, has taken the lead to analyze the prevalence and sectoral distribution of exploitative child labor. The Department of Labor can obtain statistical information directly from the ILO.

2B. Laws and Regulations

¶16. (U) El Salvador has not enacted new laws on child labor.

¶17. (U) The Salvadoran Constitution prohibits child labor under the age of 14. It also prohibits child labor for older children while they are still receiving compulsory education through the ninth grade. Minors aged 14 or older may receive special permission from the MOL to work, but only where such employment is indispensable to the sustenance of the minor and his or her family. However, according to the Labor Code, children aged 12 to 14 can be authorized to perform light work, as long as it does not harm their health and development or interfere with their education. Children under 16 years of age are prohibited from working more than seven hours per day and 34 hours per week. Children under the age of 18 are prohibited from working at night.

¶18. (U) The Labor Code prohibits types of work that will likely harm the safety or morals of children. In 1999, the Government of El Salvador submitted to the ILO a document identifying hazardous forms of work prohibited for minors under Convention 182 and Convention 138. There were no new laws promulgated in 2009 relating to child labor.

¶19. (U) Forced or compulsory labor is prohibited by the Constitution, except in cases of public calamity and other instances specified by the law. All forms of slavery or practices similar to slavery are forbidden under a general provision of El Salvador's Constitution, as well as the Criminal Code. The sale and trafficking of children, debt bondage, and serfdom are specifically penalized in the Criminal Code. Criminal penalties for trafficking range from four to eight years of imprisonment, and increase by one-third if the victim is under the age of 18 years.

¶20. (U) As of February 2010, El Salvador is not taking steps to better define exploitative work as it pertains to domestic servitude. However, the ILO is working with the MOL to better define jobs that are considered hazardous based on ILO Convention ¶182. The ILO advocates augmenting assistance provided to victims, and to better track information on commercial sexual exploitation and trafficking in persons. The ILO also supports El Salvador's new children's law, which creates a role for municipalities in the elimination child labor. The law will enter into force in April ¶2010.

¶21. (U) Military recruitment of children is not permitted. However, voluntary service can begin at age 16.

¶22. (U) The use, procurement, or offering of a child for prostitution, for the production of pornography, or for pornographic performances is penalized in the Constitution. Although the Criminal Code does not criminalize prostitution per se, it penalizes the inducement, facilitation, or promotion of prostitution of a person younger than 18 years old. The Penal Code considers the commercial sexual exploitation of children, trafficking of children, and child pornography forms of organized crime, and provides harsher penalties for such crimes. The law that regulates drug-related activities penalizes the use of children for illicit activities.

2C. Institutions and Mechanisms for Enforcement

¶23. (U) The MOL provided no report of child labor complaints. However, child labor is culturally acceptable in El Salvador, and historically, complaints are rare. The MOL has 159 labor inspectors, but none work specifically on child labor issues. However, there are 15 inspectors that work as liaison officers between the MOL's Child Labor Unit and the Inspection Unit. There are also four child labor specialists attached to the Child Labor Unit of the MOL. During the year, the MOL inspections found 82 children engaged in child labor. The MOL also reported that 107 children were removed from child labor activities (70 boys and 37 girls). The MOL imposed six fines during the year.

¶24. (U) During the year, the MOL reported that it conducted 19,862 inspections in the commercial and service sectors, where child labor is rare, and 1,681 inspections in agriculture, where child labor is common.

¶25. (U) In the last decade (1999-2009) the MOL has removed 22,166 from child labor activities.

¶26. (U) During the year, the Attorney General's Office reported that it investigated 72 cases, and prosecuted eight cases, resulting in eight convictions, with sentences ranging from four to eight years of imprisonment. The government reported it invested \$574,277.82 to assist TIP victims.

¶27. (U) In general, the GOES has demonstrated commitment to combat the worst forms of child labor, and is working closely with the ILO in this regard.

2C Section 1: Hazardous Child Labor

¶28. (U) The MOL, the Attorney General's Office, and the National Civilian Police are the agencies responsible for the enforcement of laws relating to hazardous child labor. However, there are no specific regulations pertaining to hazardous child labor other than those found in the Constitution, and a general provision in the criminal code (Article 244) that cover all labor violations. Neither the MOL nor the Attorney General's Office has received complaints on hazardous child labor. The ILO is working with the Salvadoran government to better define hazardous child labor in Salvadoran legislation. The remaining questions do not apply to El Salvador.

2C Section 2: Exploitative Child Labor

¶29. (U) Enforcement of exploitative child labor law is the responsibility of the MOL, the Attorney General's Office, and the National Civilian Police. The information reported on hazardous child labor applies to exploitative child labor. The MOL did not receive any complaints on exploitative child labor or hazardous child labor. The 2006-2010 National Plan to Eradicate the Worst Forms of Child Labor places the MOL in charge of reviewing, updating, and modernizing the legal framework related to child labor, as well as increasing legal oversight and labor inspections to prevent and eradicate hazardous job conditions.

2D. Institutional Mechanisms for Effective Enforcement

¶30. (U) On February 4, the government reported that there are four social workers and 16 police officers employed to conduct investigations on trafficking in person in general, including commercial sexual exploitation. However, there is no data available on the number of children that were rescued through these procedures. The government believes the number of social workers, investigators, and funding is not adequate. However, the government did not provide an estimate of their funds available to enforce child labor laws and related crimes.

¶31. (U) Although the government does not maintain a hotline exclusively for the reporting of child labor crimes, last year, the International Organization for Migration (IOM) trained police officers who handle 911 emergency calls to identify trafficking victims. If the police identify a TIP victim, the case is submitted to the TIP specialized unit. The government reported that approximately 30 percent of the total phone calls received were related to TIP issues. In all cases, there were minors involved, and approximately in 60 percent of the cases, the minors were rescued.

2D Section 1: Child Trafficking

¶32. (U) The National Civilian Police (PNC), the Immigration Office, and the Office of the Attorney General (FGR) are the government agencies responsible for enforcing trafficking laws. Administrative complaints of child labor violations, which are forwarded to the MOL, are different from crimes such as trafficking in persons or offering a child for pornographic or prostitution services, which are enforced by the FGR in conjunction with the PNC.

¶33. (U) In general, the legal remedies for trafficking are adequate to punish violations, but are likely to provide little deterrence, due to economic, cultural, and social conditions. The legal remedies for child labor are rarely enforced, providing little punishment or deterrence.

¶34. (U) During the year, the FGR reported that it investigated 72 cases, and prosecuted eight cases. During the year, judges convicted eight defendants, who received sentences ranging from four to eight years of imprisonment. The government reported that it invested \$574,277.82 to assist TIP victims.

2D Section 2: Commercial Sexual Exploitation of Children

¶35. (U) The MOL Coordinates the National Roundtable to Combat Commercial Sexual Exploitation of Children. This table is composed of government agencies and NGOs, led by the National Committee to Eliminate the Worst Forms of Child Labor. During the year, this committee trained 77 public officers on child pornography and internet risks. They have also trained prosecutors and judges on scientific evidence to prove commercial sexual exploitation and trafficking in persons.

2D Section 3: Use of Children in Illicit Activities

¶36. (U) Because the use of children in illicit activities in El Salvador is related to the country's gang problem, the National Public Security Council is the agency that addresses this issue. There is no information available on how much funding the National Public Security Council devotes exclusively to prevent the use of children in illicit activities. However, there are 19 police officers attached to the Anti-Gang Task Force.

2E. Government Policies on Child Labor

¶37. (U) In 2006, the government launched its first National Plan for the Elimination of the Worst Forms of Child Labor. The Ministries of Labor, Education, Health, Agriculture, Foreign Affairs, Tourism, Governance, Economy, and the National Secretariat for the Family, the National Secretariat for Youth, the National Institute for the Development of Children and Adolescents, in conjunction with the Small and Medium Enterprises Committee, the National Superior Labor Council, the National Round Table against Sexual Commercial Exploitation and the National Committee for the Elimination of the Worst Forms of Child Labor, joined efforts with the ILO/IPEC International Program on the Elimination of Child Labor to launch a four-year national plan to eliminate the worst forms of child labor. The government reports that it is currently in Phase III of the National Plan.

¶38. (U) On April 30, 2009, the Legislative Assembly unanimously amended article 56 of the Salvadoran constitution to declare education free and compulsory through high school.

¶39. (U) On November 23, 2009, the ILO and other non-governmental organizations, private enterprise, and labor unions, with the support of the MOL, approved a national strategy to eliminate the worst forms of child labor in El Salvador. The strategy provides indicators and general goals aimed at combating the worst forms of child labor. For more information please see:
<http://www.ilo.org/ipecinfo/product/download.do?type=document&id=12163>

¶40. (U) At present, the ILO, in conjunction with the MOL, are implementing the second stage of a program to eliminate the worst forms of child labor. The program has removed 3,488 children from child labor activities, and it has prevented 9,555 children from becoming child laborers. This program aims to strengthen El Salvador's ability to eliminate the worst forms of child labor through the promulgation of public policies, the creation of a reliable child labor data base, and improvements in government

services to children and their families. This program also aims at creating a model for children's assistance through formal and informal education, professional training, occupational safety and health training, and public and private monitoring of child labor conditions in their communities.

¶141. (U) One component of the national strategy is the creation of social policies to reduce poverty and child labor. This effort is related to a program called Urban and Rural Solidarity Communities, which provides a conditional payment of \$30 per month for poor families.

¶142. (U) The GOES provided \$13,495,195 to finance a child labor strategic plan ("Hoja de Ruta") by providing educational services through the Ministry of Education. Overall, MOL has invested \$182,338 to combat child labor. The ILO reported that the government also provides non-monetary support to child labor plans.

¶143. (U) The Government participates in the National Roundtable to Combat Child Labor. During the year, this resulted in government efforts to train 77 public officers on child pornography issues. A credible source reported that this year, this table has been particularly quiet due to bureaucratic procedures in the new administration.

¶144. (U) The GOES did not sign any bilateral agreements to combat child labor in 2009. However, the government ratified ILO Convention 182.

2F. Social Programs to Eliminate or Prevent Child Labor

¶145. (U) In 2009, the GOES, in conjunction with nine NGOs and other organizations, conducted 12 programs designed to reduce child labor.

¶146. (U) There were eight ILO programs implemented in El Salvador, financed by the USDOL, aimed at withdrawing 3,286 children from child labor activities; and they expected to prevent 7,926 children from child labor.

¶147. (U) The European community has also financed one program to eliminate and prevent child labor. The target population is children and their parents who work as street vendors in La Libertad Department.

El Salvador's Continual Progress Toward Eliminating the Worst Forms of Child Labor

¶148. (U) In 2009, the FGR reported that it investigated 72 cases (including an investigation of the former FGR Coordinator on TIP issues), in comparison to 81 cases investigated and eight cases prosecuted in 2008.

¶49. (U) During the year, judges convicted eight defendants, in comparison to one conviction in 2008. Defendants received sentences ranging from four to eight years imprisonment.

¶50. (U) According to the 2007 Multiple Household Survey conducted by the Ministry of Economy, El Salvador has reduced the percentage of working children from 10.2 in 2003 to 5.9 in 2007. (Comment: Because child labor is often considered socially acceptable, the reliability of these numbers is uncertain. Additionally, there are serious differences between the 2003 data projection that the GOES was using, based in the 1992 census, and the 2007 census. Prior to the 2007 census, the government made projections based on a population of 7.5 million inhabitants; the 2007 census indicated that El Salvador's population is 5.8 million).

McGEE